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SUBJ: DNS 13-082 Whiskey Dick Wildlife Area Seasonal Road Closure

The Kittitas County Field and Stream Club has reviewed DNS 13-082 regarding the Whiskey Dick Wildlife Area Seasonal Road Closure of 02/01/2014-04/30/2014. We are submitting the following response and questions.

Issues:

1. WDFW is separating this action from the overall recreation planning that is currently taking place for the larger piece of publicly owned land surrounding this area and for this area itself. The planning that is currently underway is for development of an overarching recreation management plan designed to guide recreation management decisions for the next twenty years plus on 230,000 acres of adjoining land managed by two Washington State agencies. While the DNS for the Whiskey Dick Wildlife Area Winter Closure could potentially have merit on its own, a DNS is absolutely not applicable to the larger recreation management plan currently being developed. This appears to be an attempt to segment the Whiskey Dick Wildlife Area Winter Closure from the larger action to avoid an in-depth review of this action. SEPA Section 2.3.1.1 states: "Phased review is not appropriate when it would merely divide a project to avoid consideration of cumulative impacts or alternatives. For example, if an industrial facility is proposed, it is not appropriate to limit the review to the impacts of the grade and fill permit without considering construction and operation of the industrial facility".

2. Based on WAC 197-11-330 (3)(e)(iv) it appears that this action is likely to have a significant impact because it will establish a precedent for future actions that could potentially have significant effects (e.g. displacement of recreation resulting from an area closure). If recreation is shut down in one location, it will relocate -- what will it impact where it reestablishes? Also see WAC 197-11-330 (5) below.

3. This is clearly a non-project action and it should be reviewed as one. The Environmental Checklist is incomplete.

2.3.1.1 Phased Review

The SEPA Rules allow a proposal to be phased so that SEPA compliance can be done for each phase. Phased review allows agencies and the public to focus on issues that are ready for decision and excludes from consideration issues already decided or not yet ready [[WAC 197-11-060\(5\)\(b\)](#)].

The sequence of phased review of a project must be from a broad scope to a narrow scope. For example, the review of a multi-phase planned unit development would consist of a general review of the entire proposal and detailed review of those phases ready for

construction. Additional review would occur prior to each future phase when adequate information was available to evaluate the environmental impacts.

Phased review is not appropriate when it would merely divide a project to avoid consideration of cumulative impacts or alternatives. For example, if an industrial facility is proposed, it is not appropriate to limit the review to the impacts of the grade and fill permit without considering construction and operation of the industrial facility.

The "broad to narrow" restriction of phased environmental review does not apply to planning proposals done under the Growth Management Act. For example, the environmental review for the adoption of an interim critical area ordinance (narrow focus) may occur before the review and adoption of the comprehensive plan (broad focus). This is allowed under the 1995 amendments to the SEPA Rules in WAC 197-11-228.

Whenever phased review is used, the SEPA document must clearly state that the proposal is being phased. Future environmental documents should identify the previous documents and should focus on those issues not adequately addressed in the previous documents.

If the proposal consists of a series of actions that are individually exempt, but together may have a significant impact, then the proposal is not exempt.

WAC 197-11-330

Threshold determination process.

An EIS is required for proposals for legislation and other major actions significantly affecting the quality of the environment. The lead agency decides whether an EIS is required in the threshold determination process, as described below.

(1) In making a threshold determination, the responsible official shall:

(a) Review the environmental checklist, if used:

(i) Independently evaluating the responses of any applicant and indicating the result of its evaluation in the DS, in the DNS, or on the checklist; and

(ii) Conducting its initial review of the environmental checklist and any supporting documents without requiring additional information from the applicant.

(b) Determine if the proposal is likely to have a probable significant adverse environmental impact, based on the proposed action, the information in the checklist (WAC [197-11-960](#)), and any additional information furnished under WAC [197-11-335](#) and [197-11-350](#); and

(c) Consider mitigation measures which an agency or the applicant will implement as part of the proposal, including any mitigation measures required by development regulations, comprehensive plans, or other existing environmental rules or laws.

(2) In making a threshold determination, the responsible official should determine whether:

(a) All or part of the proposal, alternatives, or impacts have been analyzed in a previously prepared environmental document, which can be adopted or incorporated by reference (see Part Six).

(b) Environmental analysis would be more useful or appropriate in the future in which case, the agency shall commit to timely, subsequent environmental review, consistent with WAC [197-11-055](#) through [197-11-070](#) and Part Six.

(3) In determining an impact's significance (WAC [197-11-794](#)), the responsible official shall take into account the following, that:

(a) The same proposal may have a significant adverse impact in one location but not in another location;

(b) The absolute quantitative effects of a proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment;

(c) Several marginal impacts when considered together may result in a significant adverse impact;

(d) For some proposals, it may be impossible to forecast the environmental impacts with precision, often because some variables cannot be predicted or values cannot be quantified.

(e) A proposal may to a significant degree:

(i) Adversely affect environmentally sensitive or special areas, such as loss or destruction of historic, scientific, and cultural resources, parks, prime farmlands, wetlands, wild and scenic rivers, or wilderness;

(ii) Adversely affect endangered or threatened species or their habitat;

(iii) Conflict with local, state, or federal laws or requirements for the protection of the environment; and

(iv) Establish a precedent for future actions with significant effects, involves unique and unknown risks to the environment, or may affect public health or safety.

(4) If after following WAC [197-11-080](#) and [197-11-335](#) the lead agency reasonably believes that a proposal may have a significant adverse impact, an EIS is required.

(5) A threshold determination shall not balance whether the beneficial aspects of a proposal outweigh its adverse impacts, but rather, shall consider whether a proposal has any probable significant adverse environmental impacts under the rules stated in this section. For example, proposals designed to improve the environment, such as sewage treatment plants or pollution control requirements, may also have significant adverse environmental impacts.

[Statutory Authority: 1995 c 347 (ESHB 1724) and RCW [43.21C.110](#). WSR 97-21-030 (Order 95-16), § 197-11-330, filed 10/10/97, effective 11/10/97. Statutory Authority: RCW [43.21C.110](#). WSR 84-05-020 (Order DE 83-39), § 197-11-330, filed 2/10/84, effective 4/4/84.]

Questions:

1. Director Anderson stated at a meeting with Senator Holmquist Newbry and me on 05/23/2013 that the winter closure was not about herd health, but rather to address damage on agricultural land. Why then does the DNS refer to herd health as an objective and take up a major portion of this DNS?

2. How can you say there are “high levels of winter/spring traffic” when the total number for all four entry points, per your counters, was only **23** vehicles on January 30, 2013? (I

halved your total as the counters did not take into account whether the vehicles were entering or exiting--and they had to come out somewhere). In a 44,000 acre area with large deep canyons and very primitive jeep trails (the word "roads" is a misnomer) the elk have very little contact with vehicles. If they are as disturbed by vehicles as stated, then why on March 19th 2013 (in the middle of the closure) were there hundreds of elk grazing and bedded down on the I-90 freeway median as thousands of vehicles drove by? The Washington State Patrol reported they had to close the freeway while WDFW hazed them north with a helicopter. This was not the only occurrence during the Winter Closure that large numbers of elk were encountered grazing along major highways.

3. Why have there been no SEPAs done for the prior 6 years of this closure?

4. Why were no SEPAs ever done for the Joe Watt, Robinson, Wenas, and Oak Creek WLA winter closures?

5. Isn't your assertion that private land damage has decreased during the last 6 years directly attributable to the efforts of Master Hunters? There is no quantifiable evidence that the Winter Closure has any affect on elk movement in or out. On the contrary, Dr. McCourquodale concludes in his 2013 Colockum Elk Study that elk move in response to plant community cues—in other words they follow the grass.

I have attached, per your request, a copy of one page of the petition we circulated in 2013 which **559** people signed opposing the Whiskey Dick Winter Closure. Senator Holmquist Newbry, Representatives Warnick and Manweller, and the Kittitas County Board of Commissioners all have the complete copies. The originals are available at your request.

Our challenge to this winter closure remains resolute.

Respectfully submitted by:

Deborah K. Essman
President
Kittitas County Field and Stream Club